to obtain a high price." *Mooney v. Miller,* 102 Mass. 217; *Credle v. Swindell,* 63 N. C. 305. The Massachusetts rule is criticized in *Shuttlefield v. Neil,* 145 N. W. (Iowa) 1, and is followed in but a very few jurisdictions.

INDICTMENT AND INFORMATION—VARIANCE—NAME OF PERSON INJURED.—PEOPLE V. ANDERSON, 107 N. W. (ILL.) 840.—*Held,* that proof of an assault upon "Olson," the husband of the person filing the information, will not support a conviction where the information names "Jonas Olson" as the person assaulted.

The general rule is that the name of the person injured must be proved as laid, and variance between the allegation and proof in this particular is fatal. *Milontree v. State,* 30 Tex. App. 151. The Christian name of the person injured must be proved as charged, and variance between allegation and proof thereof is fatal. *Meyer v. State,* 50 Ind. 18; *Hughes v. State,* 41 Cal. 234; *Lewis v. State,* 90 Ga. 95. In Colorado it has even been held that there is a fatal variance between the allegation of ownership in Michael Johnson and proof of ownership in Mike Johnson. *Sullivan v. People,* 6 Colo. App. 458. Some courts, however, have made exception to the general rule. Where a name is spelled in two ways in an indictment and proved one way, there is no variance. *Davenport v. State,* 38 Ga. 184. If the variance is so slight that the person would have been readily known by the name used such variance is immaterial. *Aaron v. State,* 37 Ala. 106. In some cases, in event of a slight variance, the question of identity has been held to be one for the jury. *McLain v. State,* 71 Ga. 279. In *Bennett v. United States,* 194 Fed. 630 (affirmed 227 U. S. 333), it was held that where the record clearly indicates the identity there is no variance though the Christian name alleged is not that proved. In *Joyce v. State,* 2 Swan (Tenn.) 667, it was held that the objection of lack of proof of the Christian name of the deceased was too technical and insufficient to disturb the verdict, no question as to the name of the deceased having been raised at the trial. This case cannot be said to be contra to the principal case since it does not clearly appear in the report of the latter just when the question of identity was first raised. The holding of the principal case seems overtechnical. It would seem preferable to leave the question of identity to the jury.

MANDAMUS—LIABILITY OF GOVERNOR—MINISTERIAL DUTIES.—GANTENBEIN V. WEST, 144 PAC. (ORE.) 1171.—*Held,* that the governor of a state is subject to a writ of mandamus to compel the performance of ministerial duties.

It was early decided that the head of an executive department was amenable to judicial control in the performance of ministerial functions. *Kendall v. U. S.,* 12 Pet. (U. S.) 524; see *Marbury v. Madison,* 1 Cranch (U. S.) 137. *Contra, State v. Dike,* 20 Minn. 363; *R. R. Co. v. Randolph,* 24 Tex. 317. Many courts have proceeded on the assumption that the governor of a state fell within the same principle. *Magruder v.*